

NOTICE OF PENDING LEGISLATION		DATE
		LEGISLATIVE BILL NO. S. 2391 (H.R. 7470) ^{2.6}
SECTION I GENERAL		
TO :		FROM: LEGISLATIVE COUNSEL OFFICE OF GENERAL COUNSEL
THE ATTACHED BILL, WHICH HAS BEEN INTRODUCED INTO CONGRESS, IS:		
<input type="checkbox"/> SENT TO YOU FOR INFORMATION ONLY.		
<input type="checkbox"/> A BILL ON WHICH FAVORABLE CONGRESSIONAL ACTION <input type="checkbox"/> IS <input type="checkbox"/> IS NOT PREDICTED.		
<input type="checkbox"/> SENT FOR YOUR COMMENT AS TO WHETHER IT IS OF INTEREST TO CIA ACTIVITIES, AND WHETHER FURTHER ACTION BY THIS OFFICE IS NECESSARY OR DESIRED.		
IT IS REQUESTED THAT COMMENTS CONCERNING THIS LEGISLATION BE FORWARDED, THROUGH APPROPRIATE CHANNELS, TO THIS OFFICE, BY _____		
SECTION II COMMENTS (From Original Addressee)		
TO : LEGISLATIVE COUNSEL OFFICE OF GENERAL COUNSEL		FROM:
30 June 1955 84/1		
Mr. Frear of Delaware		
To amend the Defense Production Act of 1950, as amended.		
Distribution:		
1- cc PL <i>perch</i> Room 4. T-31 22 Aug 55		
Senate Report 696 House Conference Rpt 1630 PL 295, 9 Aug 55 H. Rpt. 1343 HR 7470 laid on table + S. 2391 passed in lieu thereof		
1- Rpts + Law [redacted] 1- " " Dir of Publ 1- " " DDS - Mr. Lloyd 1- " " Dir of Logistics		
Note to [redacted] It is my recollection that you expressed interest in this bill.		
DDS, Personnel : This bill includes certain instructions on WOCs that may be of interest.		
DATE OF COMMENTS	SIGNATURE AND TITLE	EXTENSION
Approved For Release 2002/01/10 : CIA-RDP59-00224A000200020001-1		

Approved For Release 2002/01/10 : CIA-RDP59-00224A000200020001-1
Public Law 295 - 84th Congress
Chapter 655 - 1st Session
S. 2391

AN ACT

All 69 Stat. 580.

To amend the Defense Production Act of 1950, as amended, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Defense Production Act Amendments of 1955".

SEC. 2. Section 2 of the Defense Production Act of 1950, as amended, is amended to read as follows:

Defense Pro-
duction Act
Amendments of
1955.
64 Stat. 798.
50 USC app.
2062.

"DECLARATION OF POLICY

"SEC. 2. In view of the present international situation and in order to provide for the national defense and national security, our mobilization effort continues to require some diversion of certain materials and facilities from civilian use to military and related purposes. It also requires the development of preparedness programs and the expansion of productive capacity and supply beyond the levels needed to meet the civilian demand, in order to reduce the time required for full mobilization in the event of an attack on the United States."

SEC. 3. Section 303 of the Defense Production Act of 1950, as amended, is amended by adding at the end thereof a new subsection as follows:

50 USC app.
2093.

"(g) When in his judgment it will aid the national defense, and upon a certification by the Secretary of Agriculture or the Secretary of the Interior that a particular strategic and critical material is likely to be in short supply in time of war or other national emergency, the President may make provision for the development of substitutes for such strategic and critical materials."

SEC. 4. Subsection (c) of section 701 of the Defense Production Act of 1950, as amended, is amended to read as follows:

50 USC app.
2151.

"(c) Whenever the President invokes the powers given him in this Act to allocate any material in the civilian market, he shall do so in such a manner as to make available, so far as practicable, for business and various segments thereof in the normal channel of distribution of such material, a fair share of the available civilian supply based, so far as practicable, on the share received by such business under normal conditions during a representative period preceding any future allocation of materials: *Provided*, That the President shall, in the allocation of materials in the civilian market, give due consideration to the needs of new concerns and newly acquired operations, undue hardships of individual businesses, and the needs of smaller concerns in an industry."

SEC. 5. Section 701 of the Defense Production Act of 1950, as amended, is amended by adding after subsection (c) a new subsection as follows:

"(d) In order to further the objectives and purposes of this section, the Office of Defense Mobilization is directed to investigate the distribution of defense contracts with particular reference to the share of such contracts which has gone and is now going to small business, either directly or by subcontract; to review the policies, procedures, and administrative arrangements now being followed in order to increase participation by small business in the mobilization program; to explore all practical ways, whether by amendments to laws, policies, regulations, or administrative arrangements, or otherwise, to increase the share of defense procurement going to small business; to get from the departments and agencies engaged in procurement, and from other appropriate agencies including the Small Business Administration, their views and recommendations on ways to increase the share of

Distribution of
defense con-
tracts.

All 69 Stat. 581.

Reports to President and Congress. procurement going to small business; and to make a report to the President and the Congress, not later than six months after the enactment of the Defense Production Act Amendments of 1955, which report shall contain the following: (i) a full statement of the steps taken by the Office of Defense Mobilization in making investigations required by this subsection; (ii) the findings of the Office of Defense Mobilization with respect to the share of procurement which has gone and is now going to small business; (iii) a full and complete statement of the actions taken by the Office of Defense Mobilization and other agencies to increase such small business share; (iv) a full and complete statement of the recommendations made by the procurement agencies and other agencies consulted by the Office of Defense Mobilization; and (v) specific recommendations by the Office of Defense Mobilization for further action to increase the share of procurement going to small business."

50 USC app. 2158. SEC. 6. Section 708 of the Defense Production Act of 1950, as amended, is amended—

Voluntary agreements and programs.

52 Stat. 117.
15 USC 58.

Review by Attorney General.

(1) by inserting before the period at the end of the first sentence of subsection (b) a colon and the following: "*Provided, however,* That after the enactment of the Defense Production Act Amendments of 1955, the exemption from the prohibitions of the antitrust laws and the Federal Trade Commission Act of the United States shall apply only (1) to acts and omissions to act requested by the President or his duly authorized delegate pursuant to duly approved voluntary agreements or programs relating solely to the exchange between actual or prospective contractors of technical or other information, production techniques, and patents or patent rights, relating to equipment used primarily by or for the military which is being procured by the Department of Defense or any department thereof, and the exchange of materials, equipment, and personnel to be used in the production of such equipment; and (2) to acts and omissions to act requested by the President or his duly authorized delegate pursuant to voluntary agreements or programs which were duly approved under this section before the enactment of the Defense Production Act Amendments of 1955. The Attorney General shall review each of the voluntary agreements and programs covered by this section, and the activities being carried on thereunder, and, if he finds, after such review and after consultation with the Director of the Office of Defense Mobilization and other interested agencies, that the adverse effects of any such agreement or program on the competitive free enterprise system outweigh the benefits of the agreement or program to the national defense, he shall withdraw his approval in accordance with subsection (d) of this section. This review and determination shall be made within ninety days after the enactment of the Defense Production Act Amendments of 1955.";

(2) by inserting in subsection (d) thereof after the word "hereunder" the following: " , or upon withdrawal by the Attorney General of his approval of the voluntary agreement or program on which the request or finding is based,";

(3) by inserting after the first sentence of subsection (e) thereof the following new sentence: "Such surveys, and the reports hereafter required, shall include studies of the voluntary agreements and programs authorized by this section.";

(4) by striking out from the last sentence of subsection (e) thereof the words "at such times thereafter as he deems desirable" and inserting in lieu thereof the words "at least once every three months".

SEC. 7. Section 710 (b) of the Defense Production Act of 1950, as amended, is amended to read as follows:

"(b) (1) The President is further authorized, to the extent he deems it necessary and appropriate in order to carry out the provisions of this Act, and subject to such regulations as he may issue, to employ persons of outstanding experience and ability without compensation;

"(2) The President shall be guided in the exercise of the authority provided in this subsection by the following policies:

"(i) So far as possible, operations under the Act shall be carried on by full-time, salaried employees of the Government, and appointments under this authority shall be to advisory or consultative positions only.

"(ii) Appointments to positions other than advisory or consultative may be made under this authority only when the requirements of the position are such that the incumbent must personally possess outstanding experience and ability not obtainable on a full-time, salaried basis.

"(iii) In the appointment of personnel and in assignment of their duties, the head of the department or agency involved shall take steps to avoid, to as great an extent as possible, any conflict between the governmental duties and the private interests of such personnel.

"(3) Appointees under this subsection (b) shall, when policy matters are involved, be limited to advising appropriate full-time salaried Government officials who are responsible for making policy decisions.

"(4) Any person employed under this subsection (b) is hereby exempted, with respect to such employment, from the operation of sections 281, 283, 284, 434, and 1914 of title 18, United States Code, and section 190 of the Revised Statutes (5 U. S. C. 99), except that—

"(i) exemption hereunder shall not extend to the negotiation or execution, by such appointee, of Government contracts with the private employer of such appointee or with any corporation, joint stock company, association, firm, partnership, or other entity in the pecuniary profits or contracts of which the appointee has any direct or indirect interest;

"(ii) exemption hereunder shall not extend to making any recommendation or taking any action with respect to individual applications to the Government for relief or assistance, on appeal or otherwise, made by the private employer of the appointee or by any corporation, joint stock company, association, firm, partnership, or other entity in the pecuniary profits or contracts of which the appointee has any direct or indirect interest;

"(iii) exemption hereunder shall not extend to the prosecution by the appointee, or participation by the appointee in any fashion in the prosecution, of any claims against the Government involving any matter concerning which the appointee had any responsibility during his employment under this subsection, during the period of such employment and the further period of two years after the termination of such employment; and

"(iv) exemption hereunder shall not extend to the receipt or payment of salary in connection with the appointee's Government service hereunder from any source other than the private employer of the appointee at the time of his appointment hereunder.

"(5) Appointments under this subsection (b) shall be supported by written certification by the head of the employing department or agency—

"(i) that the appointment is necessary and appropriate in order to carry out the provisions of the Act;

"(ii) that the duties of the position to which the appointment is being made require outstanding experience and ability;

50 USC app. 2160.

Employment of persons without compensation.

Appointment policies, etc.

Exemptions.

62 Stat. 697.

Written certification.

“(iii) that the appointee has the outstanding experience and ability required by the position; and

“(iv) that the department or agency head has been unable to obtain a person with the qualifications necessary for the position on a full-time, salaried basis.

Publication of state-
ments in FR. “(6) The heads of the departments or agencies making appointments under this subsection (b) shall file with the Division of the Federal Register for publication in the Federal Register a statement including the name of the appointee, the employing department or agency, the title of his position, and the name of his private employer, and the appointee shall file with such Division for publication in the Federal Register a statement listing the names of any corporations of which he is an officer or director or within sixty days preceding his appointment has been an officer or director, or in which he owns, or within sixty days preceding his appointment has owned, any stocks, bonds, or other financial interests, and the names of any partnerships in which he is, or was within sixty days preceding his appointment, a partner, and the names of any other businesses in which he owns, or within such sixty-day period has owned, any similar interest. At the end of each succeeding six-month period, the appointee shall file with such Division for publication in the Federal Register a statement showing any changes in such interests during such period.

Survey of appoint-
ments; re-
port. “(7) At least once every three months the Chairman of the United States Civil Service Commission shall survey appointments made under this subsection and shall report his findings to the President and the Joint Committee on Defense Production and make such recommendations as he may deem proper.

Transporta-
tion; per
diems. “(8) Persons appointed under the authority of this subsection may be allowed transportation and not to exceed \$15 per diem in lieu of subsistence while away from their homes or regular places of business pursuant to such appointment.”

50 USC app.
2160. Sec. 8. Section 710 of the Defense Production Act of 1950, as amended, is further amended by redesignating subsections “(e)” and “(f)” as subsections “(f)” and “(g)”, respectively, and by inserting after subsection “(d)” a new subsection as follows:

Nucleus
executive
reserve. “(e) The President is further authorized to provide for the establishment and training of a nucleus executive reserve for employment in executive positions in Government during periods of emergency. Members of this executive reserve who are not full-time Government employees may be allowed transportation and not to exceed \$15 per diem in lieu of subsistence while away from their homes or regular places of business for the purpose of participating in the executive reserve training program. The President is authorized to provide by regulation for the exemption of such persons who are not full-time Government employees from the operation of sections 281, 283, 284, 434, and 1914 of title 18 of the United States Code and section 190 of the Revised Statutes (5 U. S. C. 99).”

62 Stat.
697. Sec. 9. Section 712 of the Defense Production Act of 1950, as amended, is amended—

50 USC app.
2162. (1) by striking out “25” from the second sentence of subsection (c) thereof and inserting in lieu thereof “40”; and

(2) by striking out “\$50,000” in the first sentence of subsection (e) thereof and inserting in lieu thereof “\$65,000”.

Ante, p.
225. Sec. 10. Section 717 of the Defense Production Act of 1950, as amended, is amended by striking out “July 31, 1955” from the first

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Pub. Law 295

App. 69 Stat. 583.

sentence of subsection (a) thereof and inserting in ~~the~~ thereof "June 30, 1956".

SEC. 11. The provisions of this Act shall take effect as of the close of July 31, 1955. Effective date.

Approved August 9, 1955.

GPC 55139

Calendar No. 700

84TH CONGRESS }
1st Session }

SENATE

REPORT
No. 696

DEFENSE PRODUCTION ACT AMENDMENTS OF 1953

JUNE 30, 1955.—Ordered to be printed

Mr. FREAR, from the Committee on Banking and Currency, submitted the following

R E P O R T

[To accompany S. 2391]

The Committee on Banking and Currency, having considered the same, report favorably a committee bill (S. 2391) to extend and amend the Defense Production Act of 1950, as amended, and recommend that the bill do pass.

GENERAL STATEMENT:

The Defense Production Act of 1950 is the basic statute giving authority to the President to mobilize the industrial capacity of the country to resist aggression. As enacted in 1950, it contained 7 titles, dealing with Allocations and Priorities, Authority to Requisition, Expansion of Productive Capacity and Supply, Price and Wage Stabilization, Control of Consumer and Real Estate Credit, and General Provisions.

Through the exercise of the powers conferred by the act, the armed strength of the United States and the free world have been increased greatly. And through increases in productive capacity and supply, combined with leveling off of the mobilization program, supply and demand for most materials were considered to be in sufficiently close balance by 1953 so as to make possible termination of those parts of the act dealing with stabilization, and reduce the exercise of the allocation and priority powers to limited assistance for the military and related programs.

Even though the mobilization program has leveled off, the demands of the program will continue to be great for an indefinite time in the future. No extended discussion or statistical presentation is necessary to demonstrate that the current military program will continue to have a major impact upon the economy.

55006

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In addition, the world situation requires that the United States should be prepared at any time to convert immediately to full mobilization, at least until the indications of improvement become far more definite and reliable.

Accordingly, your committee has concluded that it is necessary to continue in force for 2 more years most of the powers now contained in the Defense Production Act.

These remaining powers are Title I: Allocations and Priorities; Title III: Expansion of Productive Capacity and Supply; and Title VII: General Provisions.

Hearings were held on June 21, 22, and 27, 1955, during which testimony and statements were received from Government agencies and private groups concerned with defense production. The principal agency recommendations presented to the committee were adopted, with two important exceptions:

(1) The agency recommendation for a 2-year extension of the present exemption from the antitrust laws was granted only in part, and the agency recommendation for a 20-year extension of the exemption beyond the expiration of the act was not granted.

(2) The agency recommendation for continued use of industry-paid employees in governmental policy positions, with exemption from the conflict-of-interest statutes, was not granted.

During the hearings consideration was given to the problem facing very small areas with a high degree of unemployment. Under the provisions of Defense Manpower Policy No. 4, the share of procurements for which firms in such areas may bid is reduced by the set-aside for surplus labor areas, but these firms cannot participate in the set-aside because the area is below the minimum size which the Labor Department will classify. This situation was brought to the attention of the Office of Defense Mobilization, and that Office has proposed an amendment to cure this injustice. The committee expects a prompt report on the steps taken to remedy the situation.

DECLARATION OF POLICY

Section 2 of the bill amends the declaration of policy (sec. 2 of the act) to include a specific congressional finding that the mobilization program requires the development of preparedness programs and the expansion of productive capacity and supply beyond the level needed to meet the civilian demand, in order to make possible speedy conversion to full mobilization in the event of attack on the United States.

This is not a fundamental change in the policy of the act; it is merely an increase in the emphasis placed on the planning for possible future full mobilization.

It is expected that this change in emphasis will bring about more intensive efforts to eliminate the remaining bottlenecks to the achievement of productive capacity more nearly adequate for full mobilization; to reach the stockpile goals for strategic and critical metals and minerals; to expand productive facilities—both plants and long lead time machine tools and productive equipment—even though they may remain in standby condition for the time being; and to procure, and if need be stockpile, long lead time components such as turbines and gears.

EXPANSION OF PRODUCTIVE CAPACITY AND SUPPLY

Section 3 of the bill extends the terminal date of the long-term contracting authority in section 303 of the act necessary to encourage producers of strategic and critical materials to undertake exploration and development and to enter into production. The 2-year extension is consistent with the 2-year extension of the act as a whole.

Section 3 of the bill also adds a new subsection 303 (g), which would authorize the development of substitutes for strategic and critical materials. This authority is implicit in the act as it now stands, but it is desirable to spell this authority out specifically. Such authority would be particularly helpful in those cases where a strategic and critical material is not found or cannot be produced in this country.

This authority will not be used except where there is or is expected to be a substantial shortage of the material or commodity for which a substitute is sought. The committee expects, of course, that the Office of Defense Mobilization, before exercising this authority, will consult with the agencies interested in and responsible for any agricultural commodity or other material for which a substitute is sought, in order to determine whether there is or will be substantial shortage of the commodity or material in question.

There is danger that the concerns selected to develop substitute materials with Government funds may obtain an unfair competitive advantage over other concerns. Accordingly the committee expects the Office of Defense Mobilization and other agencies acting under this authority to make appropriate provisions in research and development contracts to insure that the products and processes developed will be available to the Government, and where appropriate, to the public generally.

In the course of the hearings on the bill, information was developed about the problems which have arisen in connection with the aluminum, nickel, and copper programs being carried out under title III of the act. While no legislative action in connection with those programs appears appropriate at the moment, the committee expects the agencies involved to keep the Joint Committee on Defense Production fully informed of all developments in these programs, so that any necessary legislative action may be taken promptly.

Title III of the act has made possible many major accomplishments in the maintenance of a strong mobilization base. These include the acquisition of materials for the stockpile of strategic and critical materials, the increased production of essential materials for military and civilian use, and the stimulation and maintenance of many industries, particularly in the field of mining. These programs should continue, so far as necessary in the interests of the national security, as an important part of the mobilization program authorized under the Defense Production Act. The committee expects to be promptly advised when any changes in this title of the act are considered necessary in the interests of national defense.

ALLOCATIONS IN THE CIVILIAN MARKET

Section 4 of the bill revises subsection 701 (c) of the Defense Production Act. That subsection contains standards for allocating materials in the civilian market, in general requiring the use of a

base period representative of normal conditions. The provision has no effect at the present time because there are no such allocations. However, if such allocations were put into effect, the provision would become of major importance.

The bill revises the existing provision in four respects.

1. In the case of materials under allocation in the civilian market on July 1, 1953, subsection 701 (c) now requires that the base period precede June 24, 1950, with adjustments to reflect changed competitive positions, the requirements of new concerns and newly acquired operations.

A few materials were under such controls on July 1, 1953. These controls were terminated later in 1953, and the materials have now been subject to normal competitive market conditions for almost 2 years. If these materials were again allocated, a base period before June 24, 1950, would be required.

While the provision was appropriate when enacted in 1953 at the end of a period of extensive controls, the existence of a substantial period of normal competitive conditions from late 1953 to the present makes this provision obsolete.

Accordingly, the bill eliminates this requirement.

2. In the case of materials not under allocation in the civilian market on July 1, 1953, subsection 701 (c) now requires the use of a representative base period following June 30, 1953. Here again, the selection of a fixed date now appears inappropriate. The bill eliminates the reference to June 30, 1953.

During most of the period since June 30, 1953, there were no allocations in the civilian market. This period provides the administrator of the allocation authority an ample area from which to select a representative base period when the distribution of the material in the market was on the basis of normal competitive factors, uninfluenced by Government controls.

At the same time, however, the administrator could, under the amendment, select a period before June 30, 1953, in the unlikely but still possible event that no period could be selected after that date when the market distribution of the material was based upon such normal competitive factors.

The committee expects that the administrator exercising the allocation authority in the civilian market would select the most recent period representative of such normal competitive conditions.

The purpose of eliminating the specific dates, June 24, 1950, June 30, 1953, and July 1, 1953, was to give the administrator freedom to use sound discretion in selecting a base period representative of competitive market conditions and to eliminate mandatory requirements based on fixed dates no longer appropriate.

3. Subsection 701 (c) now provides for adjustments in allocations in the civilian market, subsequent to the imposition of the allocation, to reflect changes in the current competitive positions not resulting from Government controls.

The bill eliminates this provision and instead requires that a business receive its fair share based on a representative period before the imposition of the allocation.

It would be a most exceptional case where changes in competitive conditions during the exercise of the allocation power in the civilian market could be shown to have resulted from competitive conditions rather than from Government controls. If such a change should

occur, to an extent which would make it unfair to follow the shares received during the base period, the proposed section would not require the administrator of the allocation authority to give an unfair share to a concern not making use of all the materials allocated to it.

4. The bill authorizes the administrator of the allocation authority to adjust the distribution of the material after the base period in order to give due consideration to the need of new concerns and newly acquired operations. In addition, it specifically requires consideration of undue hardships of individual businesses and the needs of smaller concerns in an industry.

SHARE OF SMALL BUSINESS IN PROCUREMENT

Section 5 of the bill inserts a new section in the act requiring ODM to study the share of procurement going to small business and to submit a report with recommendations of action to increase this share.

The amount and the share of procurement going to small business, directly or by subcontract, has been declining.

The Small Business Administration report dated January 31, 1955, shows that prime contract awards to small business decreased from \$7.1 billion in fiscal 1952 to \$4.6 billion in fiscal 1953 and \$3.1 billion in fiscal 1954 (total prime contract awards were \$41.2, \$28.6, and \$16.8 billion in those years). Small business' share of prime contract awards fell from an average of 18.7 percent for the years 1951 through 1954 to 18.3 percent in fiscal 1954, and in the first 5 months of fiscal 1955 it fell to 15.3 percent.

The small-business share of procurement through subcontracting is also declining. As the total volume of procurement falls off, and as the large contractors again and again expand their facilities, often with Government assistance, there is less and less inducement to subcontract, and more inducement to keep the business in the prime contractor's plant.

The committee's Subcommittee on Small Business and the Senate Select Committee on Small Business have received much evidence of these tendencies. They give rise to grave concern because they may have a fundamental effect upon our competitive economy and our way of life.

Many efforts have been made to improve the status of small business, and undoubtedly the position of small business would be worse if they had not been made. But they have not accomplished enough.

Your committee has, therefore, directed the Office of Defense Mobilization, the top mobilization agency, to make a complete and thorough review of the matter and to submit a full report on the survey within 6 months. This report must contain the recommendations of the several agencies and ODM for action to be taken to increase the share of small business in procurement.

The committee recognizes that this study will be a major effort. The Office of Defense Mobilization will have to devote much time to it. The procurement and other interested agencies are expected to cooperate fully and promptly.

If this study and the recommendations in the report are made with initiative and imagination, the results should greatly benefit our competitive economy.

EXEMPTION FROM THE ANTITRUST LAWS FOR VOLUNTARY AGREEMENTS

Section 6 of the bill limits the authority now conferred on the President to exempt certain voluntary agreements from the antitrust laws and Federal Trade Commission Act.

The exemption from the antitrust laws provided in section 708 represents a departure from the antitrust policies of the United States which can only be justified on the grounds of compelling national defense considerations. Undesirable monopolistic practices may occur which will have unnecessary adverse effects on our competitive economy. These may continue long after the duration of the agreements and the emergency.

The determination to grant exemptions under section 708 involves the weighing of two factors: the benefits to the national defense, concerning which the officials carrying out the mobilization program should have special competence; and the possibility of adverse effects on our competitive free enterprise system, concerning which the Attorney General should have special competence.

In order to assure the consideration of both of these factors, the Congress wrote into section 708 a requirement that the exemption could not be granted (except by the President himself), without final approval by the Attorney General. This provision was in addition to the requirement of consultation with the Attorney General and the Federal Trade Commission.

This means that the Attorney General, as well as the official conducting the mobilization program, must be satisfied that the defense benefits outweigh the adverse effects on the competitive economy, with the President in a position to resolve a disagreement.

The Attorney General must be alert to his responsibility under this section; otherwise Congress should discontinue the program.

In order to emphasize this responsibility of the Attorney General, the bill makes explicit the Attorney General's power to withdraw his approval of an agreement and terminate the exemption for that agreement. He is expected to exercise this authority whenever in his judgment the adverse effects of the agreement on the competitive economy outweigh the benefits to the national defense.

The bill also directs the Attorney General to include these voluntary agreements in the surveys of the mobilization program required under subsection 710 (e) of the act, and requires him to report every 3 months to the Congress and the President.

The agreements which have been approved under this section were considered during the hearings.

The agreements providing for the exchange of information among producers of military equipment were found to have been beneficial, and the bill permits this program to continue for the 2-year extension of the act.

The largest group of nonmilitary agreements consisted of small-business pools, which are also authorized by section 217 of the Small Business Act of 1953. The Committee found no objections to these agreements though they had apparently not been very successful. This program may continue under the Small Business Act of 1953.

Of the remaining agreements, many had properly been terminated when the need for them ended. The ODM reported that only 3 remain in force: the tanker program, which provides for the allocation

DEFENSE PRODUCTION ACT AMENDMENTS OF 1953

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of tankers to the military, though it is now used largely for collecting information on the location of tankers; the foreign petroleum supply agreement, which at present authorizes only the collection of information concerning foreign petroleum supply and requirements (though in the past approval was given to other related agreements for the allocation of oil at the time of the Iranian shutdown); and 1 classified agreement in the field of foreign information.

The bill permits these remaining nonmilitary agreements to continue, but it directs the Attorney General to review each of the agreements and the activities carried on under them, and to terminate each of them if in his judgment the adverse effects on the competitive economy outweigh the benefits to the national defense.

The Office of Defense Mobilization recommended a further provision on the basis of the report of the Attorney General's National Committee To Study the Antitrust Laws. This would have permitted the President to extend the exemption from the antitrust laws for up to 20 years beyond the expiration of the act. No substantial justification was presented for such a sweeping departure from the antitrust policies of the United States, and the proposal was not adopted.

EMPLOYEES SERVING WITHOUT COMPENSATION FROM THE
GOVERNMENT

Section 7 of the bill restricts the present authority conferred by section 710 of the act to use persons on loan from industry, whose salaries continue to be paid by their private employment, under a waiver of the conflict-of-interest statutes which would otherwise prohibit such a situation.

The conflict-of-interest statutes are permanent criminal statutes, designed to insure, so far as possible, that Government employees shall serve the public interest without reservation and shall not be induced to act against the public interest by any financial temptations from outside sources. These statutes have received much attention in recent years, and some have thought the statutes too weak.

One situation where a conflict of interest occurs which may influence the judgment of a Government employee, is where his salary is paid by a private person or firm whose business is affected by the agency where the Government employee is serving. The conflict-of-interest statutes specifically prohibit this.

In time of war or full mobilization, it has been found necessary to make use of persons of outstanding ability and experience in Government jobs which require knowledge and experience in an industry. Furthermore, in time of war or full mobilization, patriotic motives make it possible to attract to the Government outstanding leaders of industry, and these same patriotic factors substantially reduce the danger that the conflicts of interest will influence these men to favor their private interests unduly, at the expense of the public interest.

At the present time there is neither war nor full mobilization, important though the mobilization plans and current activities under the Defense Production Act are. There is much greater danger now that the pressures of private interests may outweigh the public responsibilities of these persons. In addition, as the mobilization programs become reduced and consolidated with the permanent func-

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tions of the Government agencies, more and more occasions will arise where these employees, paid by private concerns and exempted from the conflict-of-interest statutes, will be carrying out the permanent functions of the agencies.

Furthermore, as the programs and the staffs working on them are reduced in size, it should be less difficult to find full-time, salaried employees familiar with the industries involved, to administer the programs, with the assistance and advice of consultants and advisers or advisory committees from industry to guide them.

The witnesses before the committee testified that the mobilization program may be expected to continue in about the present condition for years, possibly for decades.

The time when any extraordinary authority such as this should be terminated is, of course, not an easy one. Whenever authority conferred on an agency is withdrawn, administrative difficulties arise, and some degree of interference with the effectiveness of the program must be expected.

After weighing the various factors mentioned above, the committee reached the conclusion that the exemption from the conflict-of-interest statutes was no longer justified for Government employees receiving salaries from private employers, who were serving in positions such as bureau, division, or section heads, or performing the functions of such positions.

Accordingly, section 6 of the bill does not extend the exemption from the conflict-of-interest statutes under such circumstances. However, the bill would permit these employees to serve in subordinate positions, or to serve as consultants or adviser. In this way their experience and knowledge of specific industrial problems can still be available to the Government.

In addition, to emphasize the intention to restrict the use of such persons to as great an extent as possible, and to emphasize the situations where the exemption from the conflict-of-interest statutes does not apply, the provisions of Executive Order 10182 on these points have been written into the section, with one change relating to the handling of applications. These provisions are considered desirable and must be scrupulously observed.

These employees, and all other Government employees, salaried or without compensation, must keep constantly in mind the principle underlying the conflict-of-interest statutes, often expressed in the maxim, "a public office is a public trust." An employee of the Government, whatever his particular status, must base his decisions, his recommendations, or his advice, exclusively on the public interest. He must not allow his private interests to lead him away from this standard of conduct.

EXECUTIVE RESERVE

Section 7 of the bill authorizes the establishment and training of a nucleus executive reserve for employment in executive positions in the Government in periods of emergency. It would authorize the President to exempt members from the conflict-of-interest statutes, like the employees serving without compensation and consultants.

This provision supports the added emphasis placed on preparedness for a period of full mobilization in the Declaration of Policy.

As outlined by the Director of the Office of Defense Mobilization, members of this executive reserve would be selected from industry, from universities, and from the professions and would receive full security clearances after the necessary investigation. They would come to Washington for a brief period of training, in order to become familiar with Government organization and with mobilization laws, policies, and procedures. Afterward they would return to Washington from time to time for brief refresher courses, and such activities as Operation Alert.

In time of emergency they would be called to duty in whatever status might be appropriate—as full-time salaried employees, without compensation, or on a part-time basis.

While in the reserve status, they would not occupy Government positions under section 710 (b) or otherwise, nor would they even serve as consultants or advisers under section 710 (c).

JOINT COMMITTEE ON DEFENSE PRODUCTION

Section 8 of the bill increases the amount which may be spent by the Joint Committee on Defense Production for stenographic services in reporting its hearings from 25 cents a hundred pages to the current figure of 40 cents a hundred pages.

Section 8 also increases the ceiling on annual expenditures by the Joint Committee on Defense Production from \$50,000 to \$65,000.

EXTENSION OF EXPIRATION DATE

Section 9 of the bill amends the expiration date of the continuing provisions of the Defense Production Act—Title I (except sec. 104), title III, and title VII (except sec. 714)—to June 30, 1957. The Defense Production Act amendments of 1953 set an expiration date for these provisions of June 30, 1955. Senate Joint Resolution 85, which has passed the Senate and the House of Representatives, extends this date to July 31, 1955.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

DEFENSE PRODUCTION ACT AMENDMENTS OF 1953

* * * * *

DECLARATION OF POLICY

SEC. 2. In view of the present international situation and in order to provide for the national defense and national security, our mobilization effort continues to require some diversion of certain materials and facilities from civilian use to military and related purposes. It also requires *the development of preparedness programs and the expansion of productive [facilities] capacity and supply beyond the levels needed to meet the civilian demand, in order to reduce the time required for full mobilization in the event of an attack on the United States.*

* * * * *

TITLE III—EXPANSION OF PRODUCTIVE CAPACITY AND SUPPLY

* * * * *

SEC. 303. (a) To assist in carrying out the objectives of this Act, the President may make provision (1) for purchases of or commitments to purchase metals, minerals, and other materials, for Government use or resale; and (2) for the encouragement of exploration, development, and mining of critical and strategic minerals and metals: *Provided, however,* That purchases for resale under this subsection shall not include that part of the supply of an agricultural commodity which is domestically produced except insofar as such domestically produced supply may be purchased for resale for industrial uses or stockpiling, and no commodity purchased under this subsection shall be sold at less than the established ceiling price for such commodity (except that minerals and metals shall not be sold at less than the established ceiling price, or the current domestic market price, whichever is lower), or, if no ceiling price has been established, the higher of the following: (i) the current domestic market price for such commodity, or (ii) the minimum sale price established for agricultural commodities owned or controlled by the Commodity Credit Corporation as provided in section 407 of Public Law 439, Eighty-first Congress: *Provided further, however,* That no purchase or commitment to purchase any imported agricultural commodity shall be made calling for delivery more than one year after the expiration of this Act.

(b) Subject to the limitations in subsection (a), purchases and commitments to purchase and sales under such subsection may be made without regard to the limitations of existing law, for such quantities, and on such terms and conditions, including advance payments, and for such periods, but not extending beyond June 30, [1963] 1965, as the President deems necessary, except that purchases or commitments to purchase involving higher than established ceiling prices (or if there be no established ceiling prices, currently prevailing market prices) or anticipated loss on resale shall not be made unless it is determined that supply of the materials could not be effectively increased at lower prices or on terms more favorable to the Government, or that such purchases are necessary to assure the availability to the United States of overseas supplies.

(c) If the President finds—

(1) that under generally fair and equitable ceiling prices for any raw or non-processed material, there will result a decrease in supplies from high-cost sources of such material, and that the continuation of such supplies is necessary to carry out the objectives of the Act; or

(2) that an increase in cost of transportation is temporary in character and threatens to impair maximum production or supply in any area at stable prices of any materials,

he may make provision for subsidy payments on any such domestically produced material other than an agricultural commodity in such amounts and in such manner (including purchases of such material and its resale at a loss without regard to the limitations of existing law), and on such terms and conditions, as he determines to be necessary to insure that supplies from such high-cost sources are continued, or that maximum production or supply in such area at stable prices of such materials is maintained, as the case may be.

(d) The procurement power granted to the President by this section shall include the power to transport and store and have processed and refined, any materials procured under this section.

(e) When in his judgment it will aid the national defense, the President is authorized to install additional equipment, facilities, processes, or improvements to plants, factories, and other industrial facilities owned by the United States Government, and to install Government-owned equipment in plants, factories, and other industrial facilities owned by private persons.

(f) Notwithstanding any other provision of law to the contrary, metals, minerals, and materials acquired pursuant to the provisions of this section which, in the judgment of the President, are excess to the needs of programs under this Act, shall be transferred to the national stockpile established pursuant to the Act of June 7, 1939, as amended (50 U. S. C. 98-98h), when the President deems such action to be in the public interest.

Transfers made pursuant to this subsection shall be made without charge against or reimbursement from funds available under such Act of June 7, 1939, as amended, except that costs incident to such transfer other than acquisition costs shall be paid or reimbursed from such funds, and the acquisition costs of such metals, minerals, and materials transferred shall be deemed to be net losses incurred by the transferring agency and the notes payable issued to the Secretary

of the Treasury representing the amounts thereof shall be canceled. Upon the cancellation of any such notes the aggregate amount of borrowing which may be outstanding at any one time under section 304 (b) of this Act, as amended, shall be reduced in an amount equal to the amount of any notes so canceled.

(g) When in his judgment it will aid the national defense, the President may make provision for the development of substitutes for strategic and critical materials.

* * * * *

TITLE VII—GENERAL PROVISIONS

Sec. 701. (a) It is the sense of the Congress that small-business enterprises be encouraged to make the greatest possible contribution toward achieving the objectives of this Act.

(b) In order to carry out this policy—

(i) the President shall provide small-business enterprises with full information concerning the provisions of this Act relating to, or of benefit to, such enterprises and concerning the activities of the various departments and agencies under this Act;

(ii) such business advisory committees shall be appointed as shall be appropriate for purposes of consultation in the formulation of rules, regulations, or orders, or amendments thereto issued under authority of this Act, and in their formation there shall be fair representation for independent small, for medium, and for large business enterprises, for different geographical areas, for trade association members and nonmembers, and for different segments of the industry;

(iii) in administering this Act, such exemptions shall be provided for small-business enterprises as may be feasible without impeding the accomplishment of the objectives of this Act; and

(iv) in administering this Act, special provisions shall be made for the expeditious handling of all requests, applications, or appeals from small-business enterprises.

(c) Whenever the President invokes the powers given him in this Act to allocate any material in the civilian market, he shall do so in such a manner as to make available, so far as practicable, for business and various segments thereof in the normal channel of distribution of such material, a fair share of the available civilian supply based, so far as practicable, on the share received by such business under normal conditions during a representative period [following June 30, 1953] preceding any future allocation of materials: *Provided, however, That the President shall from time to time give effect to the then current competitive position of established businesses as measured over a reasonable period of time, except as the same may result from Government controls under this or any other Act: Provided further, That the limitations and restrictions imposed on the production of specific items shall not exclude new concerns and newly acquired operations from a fair and reasonable share of total authorized production, and shall give due consideration to the needs of new concerns and newly acquired operations: Provided further, That if the President continues or reimposes allocation controls after June 30, 1953, in the civilian market of any materials subject to such controls on July 1, 1953, he shall do so in the manner above provided but on the basis of the share received by such business during a representative period preceding June 24, 1950, adjusted to reflect, since such date, attained competitive position, the requirements of new concerns and newly acquired operations.* *Provided, That the President shall, in the allocation of materials in the civilian market, give due consideration to the needs of new concerns and newly acquired operations, undue hardships of individual businesses, and the needs of smaller concerns in an industry.*

(d) In order to further the objectives and purposes of this section, the Office of Defense Mobilization is directed to investigate the distribution of defense contracts with particular reference to the share of such contracts which has gone and is now going to small business, either directly or by subcontract; to review the policies, procedures and administrative arrangements now being followed in order to increase participation by small business in the mobilization program; to explore all practical ways, whether by amendments to laws, policies, regulations, or administrative arrangements, or otherwise, to increase the share of defense procurement going to small business; to get from the departments and agencies engaged in procurement, and from other appropriate agencies including the Small Business Administration, their views and recommendations on ways to increase the share of procurement going to small business; and to make a report to the President and the Congress, not later than six months after the enactment of the Defense Production Act Amendments of 1955, which report shall contain the following: (i) a full statement of the steps taken by the Office of Defense

Mobilization in making investigations required by this subsection; (ii) the findings of the Office of Defense Mobilization with respect to the share of procurement which has gone and is now going to small business; (iii) a full and complete statement of the actions taken by the Office of Defense Mobilization and other agencies to increase such small business share; (iv) a full and complete statement of the recommendations made by the procurement agencies and other agencies consulted by the Office of Defense Mobilization; and (v) specific recommendations by the Office of Defense Mobilization for further action to increase the share of procurement going to small business."

* * * * *

SEC. 708. (a) The President is authorized to consult with representatives of industry, business, financing, agriculture, labor, and other interests, with a view to encouraging the making by such persons with the approval by the President of voluntary agreements and programs to further the objectives of this Act.

(b) No act or omission to act pursuant to this Act which occurs while this Act is in effect, if requested by the President pursuant to a voluntary agreement or program approved under subsection (a) and found by the President to be in the public interest as contributing to the national defense shall be construed to be within the prohibitions of the antitrust laws or the Federal Trade Commission Act of the United States: *Provided, however, That after the enactment of the Defense Production Act Amendments of 1955, the exemption from the prohibitions of the antitrust laws and the Federal Trade Commission Act of the United States shall apply only (1) to acts and omissions to act requested by the President or his duly authorized delegate pursuant to duly approved voluntary agreements or programs relating solely to the exchange between actual or prospective contractors of technical or other information, production techniques, and patents or patent rights, relating to equipment used exclusively by or for the military which is being procured by the Department of Defense or any department thereof, and the exchange of materials, equipment, and personnel to be used in the production of such equipment; and (2) to acts and omissions to act requested by the President or his duly authorized delegate pursuant to voluntary agreements or programs which were duly approved under this section before the enactment of the Defense Production Act Amendments of 1955. The Attorney General shall review each of the voluntary agreements and programs covered by clause (2) of the proviso in the preceding sentence, and the activities being carried on thereunder, and, if he finds, after such review and after consultation with the Director of the Office of Defense Mobilization and other interested agencies, that the adverse effects of any such agreement or program on the competitive free enterprise system outweigh the benefits of the agreement or program to the national defense, he shall withdraw his approval in accordance with subsection (d) of this section. This review and determination shall be made within 90 days after the enactment of the Defense Production Act Amendments of 1955. A copy of each such request intended to be within the coverage of this section, and any modification or withdrawal thereof, shall be furnished to the Attorney General and the Chairman of the Federal Trade Commission when made, and it shall be published in the Federal Register unless publication thereof would, in the opinion of the President, endanger the national security.*

(c) The authority granted in subsection (b) shall be delegated only (1) to officials who shall for the purpose of such delegation be required to be appointed by the President by and with the advice and consent of the Senate, unless otherwise required to be so appointed, and (2) upon the condition that such officials consult with the Attorney General and with the Chairman of the Federal Trade Commission not less than ten days before making any request or finding thereunder, and (3) upon the condition that such officials obtain the approval of the Attorney General to any request thereunder before making the request. For the purpose of carrying out the objectives of title I of this Act, the authority granted in subsection (b) of this section shall not be delegated except to a single official of the Government.

(d) Upon withdrawal of any request or finding made hereunder, or upon withdrawal by the Attorney General of his approval of the voluntary agreement or program on which the request or finding is based, the provisions of this section shall not apply to any subsequent act or omission to act by reason of such finding or request.

(e) The Attorney General is directed to make, or request the Federal Trade Commission to make for him, surveys for the purpose of determining any factors which may tend to eliminate competition, create or strengthen monopolies, injure small business, or otherwise promote undue concentration of economic power in the course of the administration of this Act. *Such surveys, and the reports hereafter required, shall include studies of the voluntary agreements and programs authorized by this section.*

The Attorney General shall submit to the Congress and the President within ninety days after the approval of this Act, and [at such times thereafter as he deems desirable] *at least once every three months*, reports setting forth the results of such surveys and including such recommendations as he may deem desirable.

(f) After the date of enactment of the Defense Production Act Amendments of 1952, no voluntary program or agreement for the control of credit shall be approved or carried out under this section.

* * * * *
SEC. 710. (a) The President, to the extent he deems it necessary and appropriate in order to carry out the provisions of this Act, is authorized to place positions and employ persons temporarily in grades 16, 17, and 18 of the General Schedule established by the Classification Act of 1949, and such positions shall be additional to the number authorized by section 505 of that Act.¹

(b) (1) The President, is further authorized to the extent he deems it necessary and appropriate in order to carry out the provisions of this Act, and subject to such regulations as he may issue, to employ persons of outstanding experience and ability without compensation [;]. *This authority may be delegated to heads of departments or agencies delegated or assigned functions under this Act but may not be redelegated by them. In order to carry out the policy of the Congress that, so far as possible, operations under this Act shall be carried on by full-time, salaried employees of the Government, heads of departments and agencies in making appointments under this subsection shall certify to the following with respect to each such appointment:*

(A) *That the appointment is necessary and appropriate in order to carry out the provisions of this Act;*

(B) *That the duties of the position to which the appointment is being made require outstanding experience and ability;*

(C) *That the appointee has the outstanding experience and ability required by the position; and*

(D) *That the department or agency head has been unable to obtain a person with qualifications necessary for the position on a full-time salaried basis.*

(2) *Appointments under this subsection (b) shall not be made to the position of the director or head of a bureau, division, section, or other comparable policy making or administrative position, and a person appointed under this subsection shall not perform the functions of such a director or head.*

[and he] (3) The President is authorized to provide by regulation for the exemption of [such] persons appointed under this subsection from the operation of sections 281, 283, 284, 434, and 1914 of title 18 of the United States Code and section 190 of the Revised Statutes (5 U. S. C. 99) [;], except that such exemption shall not extend to the following:

(A) *to the negotiation or execution by an appointee under this subsection of Government contracts with the private employer of such appointee or with any corporation, joint stock company, association, firm, partnership or other entity in the pecuniary profits or contracts of which the appointee has any direct or indirect interest;*

(B) *to the making of any recommendation or the taking of any action with respect to individual applications to the Government for relief or assistance, on appeal or otherwise, made by the private employer of the appointee or by any corporation, joint stock company, association, firm, partnership or other entity in the pecuniary profits or contracts of which the appointee has any direct or indirect interest;*

(C) *to the prosecution by the appointee, or participation by the appointee in any fashion, in the prosecution of any claims against the Government involving any matter concerning which the appointee had any responsibility during his employment under this order, during the period of such employment and the further period of two years after the termination of such employment;*

(D) *to the receipt or payment of salary in connection with the appointee's service under this subsection from any source other than the private employer of the appointee at the time of his appointment under this subsection.*

(4) Persons appointed under the authority of this subsection may be allowed transportation and not to exceed \$15 per diem in lieu of subsistence while away from their homes or regular places of business pursuant to such appointment.

(c) The President is authorized, to the extent he deems it necessary and appropriate in order to carry out the provisions of this Act to employ experts and consultants or organizations thereof, as authorized by section 55a of title 5 of the United States Code. Individuals so employed may be compensated at rates not

¹ This subsection was repealed on June 28, 1955, by subsection 12 (c) (1) of Public Law 94, 84th Congress.

in excess of \$50 per diem and while away from their homes or regular places of business they may be allowed transportation and not to exceed \$15 per diem in lieu of subsistence and other expenses while so employed. The President is authorized to provide by regulation for the exemption of such persons from the operation of sections 281, 283, 284, 434, and 1914 of title 18 of the United States Code and section 190 of the Revised Statutes (5 U. S. C. 99).

(d) The President may utilize the services of Federal, State, and local agencies and may utilize and establish such regional, local, or other agencies and utilize such voluntary and uncompensated services as may from time to time be needed; and he is authorized to provide by regulation for the exemption of persons whose services are utilized under this subsection from the operation of sections 281, 283, 284, 434, and 1914 of title 18 of the United States Code and section 190 of the Revised Statutes (5 U. S. C. 99).

(e) *The President is further authorized to provide for the establishment and training of a nucleus executive reserve for employment in executive positions in government during periods of emergency. Members of this executive reserve who are not full-time Government employees may be allowed transportation and not to exceed \$15 per diem in lieu of subsistence while away from their homes or regular places of business for the purpose of participating in the executive reserve training program. The President is authorized to provide by regulation for the exemption of such persons who are not full-time Government employees from the operation of sections 281, 283, 284, 434, and 1914 of title 18 of the United States Code and section 190 of the Revised Statutes (5 U. S. C. 99).*

[(e)] (f) Whoever, being an officer or employee of the United States or any department or agency thereof (including any Member of the Senate or House of Representatives), receives, by virtue of his office or employment, confidential information, and (1) uses such information in speculating directly or indirectly on any commodity exchange or (2) discloses such information for the purpose of aiding any other person so to speculate, shall be fined not more than \$10,000 or imprisoned not more than one year, or both. As used in this section, the term "speculate" shall not include a legitimate hedging transaction, or a purchase or sale which is accompanied by actual delivery of the commodity.

[(f)] (g) The President, when he deems such action necessary, may make provision for the printing and distribution of reports, in such number and in such manner as he deems appropriate, concerning the actions taken to carry out the objectives of this Act.

* * * * *

Sec. 712. (a) There is hereby established a joint congressional committee to be known as the Joint Committee on Defense Production (hereinafter referred to as the committee), to be composed of ten members as follows:

(1) Five members who are members of the Committee on Banking and Currency of the Senate, three from the majority and two from the minority party, to be appointed by the chairman of the committee; and

(2) Five members who are members of the Committee on Banking and Currency of the House of Representatives, three from the majority and two from the minority party, to be appointed by the chairman of the committee.

A vacancy in the membership of the committee shall be filled in the same manner as the original selection. The committee shall elect a chairman and a vice chairman from among its members, one of whom shall be a member of the Senate and the other a member of the House of Representatives.

(b) It shall be the function of the committee to make a continuous study of the programs and of the fairness to consumers of the prices authorized by this Act and to review the progress achieved in the execution and administration thereof. Upon request, the committee shall aid the standing committees of the Congress having legislative jurisdiction over any part of the programs authorized by this Act; and it shall make a report to the Senate and the House of Representatives, from time to time, concerning the results of its studies, together with such recommendations as it may deem desirable. Any department, official, or agency administering any of such programs shall, at the request of the committee, consult with the committee, from time to time, with respect to their activities under this Act.

(c) The committee, or any duly authorized subcommittee thereof, is authorized to hold such hearings, to sit and act at such times and places, to require by subpoena (to be issued under the signature of the chairman or vice chairman of the committee) or otherwise the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, to take such

testimony, to procure such printing and binding, and to make such expenditures as it deems advisable. The cost of stenographic services to report such hearings shall not be in excess of ~~25~~ 40 cents per hundred words. The provisions of sections 102 to 104, inclusive, of the Revised Statutes shall apply in case of and failure of any witness to comply with any subpoena or to testify when summoned under authority of this subsection.

(d) The committee is authorized to appoint and, without regard to the Classification Act of 1949, as amended, fix the compensation of such experts, consultants, technicians, and organizations thereof, and clerical and stenographic assistants as it deems necessary and advisable.

(e) The expenses of the committee under this section, which shall not exceed ~~\$50,000~~ \$65,000 in any fiscal year, shall be paid one-half from the contingent fund of the Senate and one-half from the contingent fund of the House of Representatives upon vouchers signed by the chairman or vice chairman. Disbursements to pay such expenses shall be made by the Clerk of the House of Representatives out of the contingent fund of the House of Representatives, such contingent fund to be reimbursed from the contingent fund of the Senate in the amount of one-half of disbursements so made without regard to any other provision of law.

* * * * *

SEC. 717. (a) Title I (except section 104), title III, and title VII (except section 714) of this Act, and all authority conferred thereunder, shall terminate at the close of ~~July 31, 1955~~ June 30, 1957.¹ Section 714 of this Act, and all authority conferred thereunder, shall terminate at the close of July 31, 1953. Section 104, title II, and title VI of this Act, and all authority conferred thereunder, shall terminate at the close of June 30, 1953. Titles IV and V of this Act, and all authority conferred thereunder, shall terminate at the close of April 30, 1953.

(b) Notwithstanding the foregoing—

(1) The Congress by concurrent resolution or the President by proclamation may terminate this Act prior to the termination otherwise provided therefor.

(2) The Congress may also provide by concurrent resolution that any section of this Act and all authority conferred thereunder shall terminate prior to the termination otherwise provided therefor.

(3) Any agency created under this Act may be continued in existence for purposes of liquidation for not to exceed six months after the termination of the provisions authorizing the creation of such agency.

(c) The termination of any section of this Act, or of any agency or corporation utilized under this Act, shall not affect the disbursement of funds under, or the carrying out of, any contract, guarantee, commitment or other obligation entered into pursuant to this Act prior to the date of such termination, or the taking of any action necessary to preserve or protect the interests of the United States in any amounts advanced or paid out in carrying on operations under this Act, or the taking of any action (including the making of new guarantees) deemed by a guaranteeing agency to be necessary to accomplish the orderly liquidation, adjustment or settlement of any loans guaranteed under this Act, including actions deemed necessary to avoid undue hardship to borrowers in reconverting to normal civilian production; and all of the authority granted to the President, guaranteeing agencies, and fiscal agents, under section 301 of this Act shall be applicable to actions taken pursuant to the authority contained in this subsection.

Notwithstanding any other provision of this Act, the termination of title VI or any section thereof shall not be construed as affecting any obligation, condition, liability, or restriction arising out of any agreement heretofore entered into, pursuant to, or under the authority of, section 602 or section 605 of this Act, or any issuance thereunder, by any person or corporation and the Federal Government or any agency thereof relating to the provision of housing for defense workers or military personnel in an area designated as a critical defense housing area pursuant to law.

(d) No action for the recovery of any cooperative payment made to a cooperative association by a Market Administrator under an invalid provision of a milk marketing order issued by the Secretary of Agriculture pursuant to the Agricultural Marketing Agreement Act of 1937 shall be maintained unless such action is brought by producers specifically named as party plaintiffs to recover their

¹ The Defense Production Act amendments of 1953 set an expiration date for these provisions of June 30, 1955. S. J. Res. 85, which has passed the Senate and the House of Representatives, extends this date to July 31, 1955.

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respective share of such payments within ninety days after the date of enactment of the Defense Production Act Amendments of 1952 with respect to any cause of action heretofore accrued and not otherwise barred, or within ninety days after accrual with respect to future payments, and unless each claimant shall allege and prove (1) that he objected at the hearing to the provisions of the order under such payments were made and (2) that he either refused to accept payments computed with such deduction or accepted them under protest to either the Secretary or the Administrator. The district courts of the United States shall have exclusive original jurisdiction of all such actions regardless of the amount involved. This subsection shall not apply to funds held in escrow pursuant to court order. Notwithstanding any other provision of this Act, no termination date shall be applicable to this subsection.

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84TH CONGRESS 1st Session	}	HOUSE OF REPRESENTATIVES	}	REPORT No. 1343
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DEFENSE PRODUCTION ACT AMENDMENTS OF 1955

JULY 21, 1955.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. SPENCE, from the Committee on Banking and Currency, submitted the following

R E P O R T

[To accompany H. R. 7470]

The Committee on Banking and Currency, to whom was referred the bill (H. R. 7470) to amend the Defense Production Act of 1950, as amended, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

Your committee held open hearings on H. R. 7071 on July 6, 7, and 8, 1955, and closed hearings on July 12, 1955. H. R. 7470 is a clean bill reported by your committee.

GENERAL STATEMENT

The Defense Production Act amendments of 1953 continued for 2 years the basic authorities of 3 of the 7 titles of the Defense Production Act. The three titles that were continued were title I relating to allocations and priorities,¹ title III relating to expansion of productive capacity and supply, and title VII relating to general provisions of the act.² Today, as was true 2 years ago, the country is still engaged in mobilization and defense programs and it is the opinion of the committee a further extension, with some modifications, of these same 3 titles of the Defense Production Act is again desirable. The extension proposed of H. R. 7470 is to the close of June 30, 1956.

¹ Sec. 104 dealing with import controls was not extended inasmuch as other provisions of law were found adequate for the purposes of such section.

² Sec. 714 which set up the Small Defense Plants Administration was not extended as the Congress provided for a successor agency, the Small Business Administration, in the Small Business Act of 1953.

PRIORITIES AND ALLOCATIONS

The title I priorities and allocations power is of use both for the conduct of current defense programs and for the rapid handling of production and material problems in the event of full mobilization. While present supplies are approximately in balance with requirements for most materials and facilities, nevertheless Defense Department and Atomic Energy Commission procurement orders are of such magnitude as to make it only prudent to provide priority for deliveries under such orders. This is done through the defense materials system under which the Office of Defense Mobilization approves the priority programs and the allotment of controlled materials for them. It is a mechanism that could be expanded quickly in the event of mobilization to provide for the more extensive control of materials needed at such a time to meet war needs. The committee does not propose any change in the title I authority. However, the committee does propose a change in a related provision found in title VII of the act as will be noted later.

EXPANSION OF PRODUCTIVE CAPACITY AND SUPPLY

This authority found in title III of the act authorizes the use of various incentives to expand productive capacity and supply needed for the mobilization base. Some 224 expansion goals have been established and in 147 of these, objectives have been reached. Section 301 of this title contains loan-guaranty provisions which are extensively used by the Department of Defense. The lending authority provided in section 302 has not been extensively used as much of the post-Korea plant expansion for defense has been financed by private capital with no Government assistance other than rapid tax amortization. Extensive use has been made of the title III procurement authority provided in section 303. At the close of 1954, purchase programs involving gross transactions of \$8.2 billion had been certified. The expansion of productive capacity and the supply of strategic and critical materials, together with our stockpiling activities, has substantially reduced the threat of wartime shortages of such materials for defense purposes. The committee recommends that the title III authority be continued.

ALLOCATIONS IN THE CIVILIAN MARKET

Section 2 of the bill would amend section 701 (c) of title VII of the act which relates to allocations of materials in the civilian market. Although there are no such allocations at the present time the provision would become of importance if it again became necessary to allocate materials in the civilian market. This subsection sets forth the standards for use of the allocation power in the civilian market. Existing law would be changed by removing the fixed dates for determination of the base periods since they are no longer appropriate, and substitute a representative period "preceding any future allocations of materials."

VOLUNTARY AGREEMENTS

Section 3 of the bill amends section 708 of the Defense Production Act of 1950. Under section 708 of title VII of the act, the President is authorized to exempt from the operation of the antitrust laws combined actions of private parties when in accordance with a voluntary agreement which he has found to be in the public interest as contributing to the national defense. The President may delegate such authority only (1) to officials appointed by the President by and with the advice and consent of the Senate, and (2) on condition such officials consult with the Attorney General and the Chairman of the Federal Trade Commission before making any request or finding thereunder, and (3) upon condition such officials obtain the approval of the Attorney General to any request thereunder before making the request. Upon withdrawal of any request or finding the antitrust exemption shall cease to apply and in no case may extend beyond the expiration date of the act. The bill which your committee has reported would narrow this authority so that after the date of its enactment the antitrust exemption would only be permitted to apply to duly approved voluntary agreements or programs relating solely to the exchange of technical or other information, production techniques, and patents or patent rights, relating to equipment used primarily by or for the military which is being procured by the Department of Defense, and the exchange of materials, equipment, and personnel to be used in production of such equipment. The Attorney General would be directed to review existing voluntary agreements or programs and if he finds, after consultation with interested agencies, that the adverse effects of any such agreement or program on the competitive free enterprise system outweigh national defense considerations, he must withdraw his approval of the voluntary agreement or program and thereupon the antitrust exemption would cease. Such review and determination must be made within 90 days after passage of the bill. The reports which the Attorney General is required to make as to the monopolistic effects of operations under the Defense Production Act would be required to specifically include studies of the voluntary agreements and programs. Such reports to the President and the Congress would be required to be submitted at least once every 3 months rather than on an indefinite basis as provided by existing law.

EMPLOYEES SERVING WITHOUT COMPENSATION

Section 4 of the bill would amend section 710 (b) of the Defense Production Act of 1950. Section 710 (b) of the Defense Production Act of 1950, as amended, authorizes the President, to the extent he deems it necessary and appropriate in order to carry out the provisions of the act and subject to such regulations as he may issue, to employ such persons of standing, experience, and ability without compensation, and authorizes the President to exempt such persons from the conflict-of-interest statutes (secs. 281, 283, 284, 434, and 1914 of title 18 of the U. S. Code and sec. 190 of the Revised Statutes).

During your committee's hearings on the 1955 extension of the Defense Production Act, the Director of the Office of Defense Mobilization, the Secretary of Commerce, and representatives of the Secretary of the Interior recommended that the authority to appoint persons

in this capacity be continued. Your committee also heard testimony in executive session on this subject from the Comptroller General of the United States and his staff with respect to a recent investigation made by the Comptroller General relating to w. o. c. (without compensation) personnel.

The authority for the appointment of w. o. c. personnel was contained in the original Defense Production Act of 1950 and was based upon the fact that in time of war or full mobilization it has been found necessary to make use of persons of outstanding ability and experience in Government assignments which require special knowledge in a particular industry. During the time of war or full mobilization when the Government has use of such personnel a desire to serve their country would attract outstanding leaders from industry into Government service and this same desire to serve their country which is based on patriotism would substantially reduce the danger of conflict of interest between that of Government and the private employer of the appointee.

The conflict-of-interest statutes are permanent criminal statutes and are designed to insure that an employee of the Government will serve his Government and not take any actions to the detriment of his Government or which are inimical to his Government employment and private interests. As we have moved from war or full mobilization into a long-range mobilization or preparedness program, the reliance on patriotism in connection with the waiver of the conflict-of-interest statutes can be diluted and it is this danger which has caused your committee to reappraise this specific authority at this time.

Your committee fully endorses the purposes of the conflict-of-interest statutes while at the same time is aware of the fact that the present preparedness program can be greatly benefited by the special knowledge which men of outstanding ability, experience, and of industry can provide the Government. It recognizes the fact that Government cannot pay such people the compensation which they are receiving in private employment and that it is probably necessary to permit these people to continue to be paid by their private employer during their period of Government employment. Thus the problem presented to your committee was to balance the benefits to the Government from the service of w. o. c. personnel against the danger to the public interest in the waiver of the conflict-of-interest statutes in connection with their service.

In coming to the conclusion that the employment of w. o. c. personnel was necessary to the present mobilization effort, your committee at the same time has endeavored to clothe the use of this authority in such a manner as to minimize the danger inherent in the waiver of the conflict-of-interests statutes. Section 4 of the bill incorporates into the law the provisions of Executive Order No. 10182, as amended, with the following additions: (1) Limits the role of w. o. c. personnel when policy matters are involved to advising appropriate full-time salaried officials who are responsible for making policy decisions, (2) requires every appointee to file under oath with the head of his employing agency at the time of his employment a full and complete report of his outside connections, listing all personal and financial relationships which he has at that time, or has had within 12 months prior to his appointment, with any person, firm, corporation, or other entity, or

any trade organization, labor union, or similar organization; the appointee would also be required to file monthly thereafter, under oath, during the period of his appointment any changes in his outside connections, and (3) requires the Chairman of the Civil Service Commission to file with the Joint Committee on Defense Production the findings of his quarterly surveys of w. o. c. appointments together with his recommendations with respect thereto.

JOINT COMMITTEE ON DEFENSE PRODUCTION

Section 5 of the bill would amend section 712 of the Defense Production Act of 1950. Section 712 of title VII of the act set up the Joint Congressional Committee on Defense Production. This section of the act would be amended in only two minor respects. The allowance for stenographic reporting would be increased to 40 cents per hundred words (presently 25 cents) and the \$50,000 limit on expenses of the committee would be increased to not to exceed \$65,000 in any fiscal year.

EXTENSION OF EXPIRATION DATE

The expiration dates for authorities contained in the Defense Production Act is contained in section 717 of title VII of the act. Presently the titles now in effect—Title I (except sec. 104), title III, and title VII (except sec. 714) terminate at the close of July 31, 1955. Section 6 of the bill would extend such termination dates to the close of June 30, 1956.

CHANGES IN EXISTING LAW

In compliance with paragraph 2a of rule XIII of the Rules of the House, changes in existing law made by the bill, as introduced, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

DEFENSE PRODUCTION ACT OF 1950, AS AMENDED

* * * * *

TITLE VII—GENERAL PROVISIONS

Sec. 701. (a) It is the sense of the Congress that small-business enterprises be encouraged to make the greatest possible contribution toward achieving the objectives of this Act.

(b) In order to carry out this policy—

(i) the President shall provide small-business enterprises with full information concerning the provisions of this Act relating to, or of benefit to, such enterprises and concerning the activities of the various departments and agencies under this Act;

(ii) such business advisory committees shall be appointed as shall be appropriate for purposes of consultation in the formulation of rules, regulations, or orders, or amendments thereto issued under authority of this Act, and in their formation there shall be fair representation for independent small, for medium, and for large business enterprises, for different geographical areas, for trade association members and nonmembers, and for different segments of the industry;

(iii) in administering this Act, such exemptions shall be provided for small-business enterprises as may be feasible without impeding the accomplishment of the objectives of this Act; and

(iv) in administering this Act, special provisions shall be made for the expeditious handling of all requests, applications, or appeals from small-business enterprises.

(c) Whenever the President invokes the powers given him in this Act to allocate any material in the civilian market, he shall do so in such a manner as to make available, so far as practicable, for business and various segments thereof in the normal channel of distribution of such material, a fair share of the available civilian supply based, so far as practicable, on the share received by such business under normal conditions during a representative period [following June 30, 1953] preceding any future allocation of materials: *Provided, however, That the President shall from time to time give effect to the then current competitive position of established businesses as measured over a reasonable period of time, except as the same may result from Government controls under this or any other Act: Provided further, That the limitations and restrictions imposed on the production of specific items shall not exclude new concerns and newly acquired operations from a fair and reasonable share of total authorized production, and shall give due consideration to the needs of new concerns and newly acquired operations: Provided further, That if the President continues or reimposes allocation controls after June 30, 1953, in the civilian market of any materials subject to such controls on July 1, 1953, he shall do so in the manner above provided but on the basis of the share received by such business during a representative period preceding June 24, 1950, adjusted to reflect, since such date, attained competitive position, the requirements of new concerns and newly acquired operations.* *Provided, That the President shall, in the allocation of materials in the civilian market, give due consideration to the needs of new concerns and newly acquired operations, undue hardships of individual businesses, and the needs of smaller concerns in an industry.*

* * * * *

SEC. 708. (a) The President is authorized to consult with representatives of industry, business, financing, agriculture, labor, and other interests, with a view to encouraging the making by such persons with the approval by the President of voluntary agreements and programs to further the objectives of this Act.

(b) No act or omission to act pursuant to this Act which occurs while this Act is in effect, if requested by the President pursuant to a voluntary agreement or program approved under subsection (a) and found by the President to be in the public interest as contributing to the national defense shall be construed to be within the prohibitions of the antitrust laws or the Federal Trade Commission Act of the United States: *Provided, however, That after the enactment of the Defense Production Act Amendments of 1955, the exemption from the prohibitions of the antitrust laws and the Federal Trade Commission Act of the United States shall apply only (1) to acts and omissions to act requested by the President or his duly authorized delegate pursuant to duly approved voluntary agreements or programs relating solely to the exchange between actual or prospective contractors of technical or other information, production techniques, and patents or patent rights, relating to equipment used primarily by or for the military which is being procured by the Department of Defense or any department thereof, and the exchange of materials, equipment, and personnel to be used in the production of such equipment. The Attorney General shall review each of the voluntary agreements and programs covered by this section, and the activities being carried on thereunder, and, if he finds, after such review and after consultation with the Director of the Office of Defense Mobilization and other interested agencies, that the adverse effects of any such agreement or program on the competitive free enterprise system outweigh the benefits of the agreement or program to the national defense, he shall withdraw his approval in accordance with subsection (d) of this section. This review and determination shall be made within 90 days after the enactment of the Defense Production Act Amendments of 1955. A copy of each such request intended to be within the coverage of this section, and any modification or withdrawal thereof, shall be furnished to the Attorney General and the Chairman of the Federal Trade Commission when made, and it shall be published in the Federal Register unless publication thereof would, in the opinion of the President, endanger the national security.*

(c) The authority granted in subsection (b) shall be delegated only (1) to officials who shall for the purpose of such delegation be required to be appointed by the President by and with the advice and consent of the Senate, unless otherwise required to be so appointed, and (2) upon the condition that such officials consult with the Attorney General and with the Chairman of the Federal Trade Commission not less than ten days before making any request or finding thereunder, and (3) upon the condition that such officials obtain the approval of the Attorney General to any request thereunder before making the request. For the purpose of carrying out the objectives of title I of this Act, the authority granted

in subsection (b) of this section shall not be delegated except to a single official of the Government.

(d) Upon withdrawal of any request or finding made hereunder, or upon withdrawal by the Attorney General of his approval of the voluntary agreement or program on which the request or finding is based, the provisions of this section shall not apply to any subsequent act or omission to act by reason of such finding or request.

(e) The Attorney General is directed to make, or request the Federal Trade Commission to make for him, surveys for the purpose of determining any factors which may tend to eliminate competition, create or strengthen monopolies, injure small business, or otherwise promote undue concentration of economic power in the course of the administration of this Act. *Such surveys, and the reports hereafter required, shall include studies of the voluntary agreements and programs authorized by this section.* The Attorney General shall submit to the Congress and the President within ninety days after the approval of this Act, and [at such times thereafter as he deems desirable] *at least once every three months*, reports setting forth the results of such surveys and including such recommendations as he may deem desirable.

(f) After the date of enactment of the Defense Production Act Amendments of 1952, no voluntary program or agreement for the control of credit shall be approved or carried out under this section.

* * * * *

SEC. 710. (a) The President, to the extent he deems it necessary and appropriate in order to carry out the provisions of this Act, is authorized to place positions and employ persons temporarily in grades 16, 17, and 18 of the General Schedule established by the Classification Act of 1949, and such positions shall be additional to the number authorized by section 505 of that Act.³

(b) (1) The President is further authorized, to the extent he deems it necessary and appropriate in order to carry out the provisions of this Act, and subject to such regulations as he may issue, to employ persons of outstanding experience and ability without compensation; and he is authorized to provide by regulation for the exemption of such persons from the operation of sections 281, 283, 284, 434, and 1914 of title 18 of the United States Code and section 190 of the Revised Statutes (5 U. S. C. 99). Persons appointed under the authority of this subsection may be allowed transportation and not to exceed \$15 per diem in lieu of subsistence while away from their homes or regular places of business pursuant to such appointment.

(2) The President shall be guided in the exercise of the authority provided in this subsection by the following policies:

(i) So far as possible, operations under the Act shall be carried on by full-time, salaried employees of the Government, and appointments under this authority shall be to advisory or consultative positions only.

(ii) Appointments to positions other than advisory or consultative may be made under this authority only when the requirements of the position are such that the incumbent must personally possess outstanding experience and ability not obtainable on a full-time, salaried basis.

(iii) In the appointment of personnel and in assignment of their duties, the head of the department or agency involved shall take steps to avoid, to as great an extent as possible, any conflict between the governmental duties and the private interests of such personnel.

(3) Any person appointed under the authority of this subsection shall file, under oath, with the head of the employing agency at the time of employment a full and complete report of his outside connections, listing all personal and financial relationships which he has or had within twelve months prior to his appointment with any person, firm, corporation, or other entity, or any trade organization, labor union or similar organization, and he shall file monthly thereafter, under oath, so long as his appointment shall be in effect, any changes in such outside connections.

(4) Appointees under this subsection (b) shall, when policy matters are involved, be limited to advising appropriate full-time salaried Government officials who are responsible for making policy decisions.

(5) Any person employed under this subsection (b) is hereby exempted, with respect to such employment, from the operation of sections 281, 283, 284, 434, and 1914 of title 18, United States Code, and section 190 of the Revised Statutes (5 U. S. C. 99), except that—

(i) Exemption hereunder shall not extend to the negotiation or execution, by such appointee, of Government contracts with the private employer of such

³ This subsection was repealed on June 28, 1955, by subsec. 12 (c) (1) of Public Law 94, 84th Cong.

appointee or with any corporation, joint stock company, association, firm, partnership, or other entity in the pecuniary profits or contracts of which the appointee has any direct or indirect interest.

(ii) Exemption hereunder shall not extend to making any recommendation or taking any action with respect to individual applications to the Government for relief or assistance, on appeal or otherwise, under the provisions of the Act made by the private employer of the appointee or by any corporation, joint stock company, association, firm, partnership, or other entity in the pecuniary profits or contracts of which the appointee has any direct or indirect interest.

(iii) Exemption hereunder shall not extend to the prosecution by the appointee, or participation by the appointee in any fashion in the prosecution, of any claims against the Government involving any matter concerning which the appointee had any responsibility during his employment under this subsection, during the period of such employment and the further period of two years after the termination of such employment.

(iv) Exemption hereunder shall not extend to the receipt or payment of salary in connection with the appointee's Government service hereunder from any source other than the private employer of the appointee at the time of his appointment hereunder.

(6) Appointments under this subsection (b) shall be supported by written certification by the head of the employing department or agency—

(i) That the appointment is necessary and appropriate in order to carry out the provisions of the Act;

(ii) That the duties of the position to which the appointment is being made require outstanding experience and ability;

(iii) That the appointee has the outstanding experience and ability required by the position; and

(iv) That the department or agency head has been unable to obtain a person with the qualifications necessary for the position on a full-time, salaried basis.

(7) The heads of the departments or agencies making appointments under this subsection (b) shall file with the Division of the Federal Register a statement including the name of the appointee, the employing department or agency, the title of his position, and the name of his private employer.

(8) At least once every three months, the Chairman of the United States Civil Service Commission shall survey appointments made under this subsection and shall report his findings to the President and the Joint Committee on Defense Production and make such recommendations as he may deem proper.

* * * * *

SEC. 712. (a) There is hereby established a joint congressional committee to be known as the Joint Committee on Defense Production (hereinafter referred to as the committee), to be composed of ten members as follows:

(1) Five members who are members of the Committee on Banking and Currency of the Senate, three from the majority and two from the minority party, to be appointed by the chairman of the committee; and

(2) Five members who are members of the Committee on Banking and Currency of the House of Representatives, three from the majority and two from the minority party, to be appointed by the chairman of the committee.

A vacancy in the membership of the committee shall be filled in the same manner as the original selection. The committee shall elect a chairman and a vice chairman from among its members, one of whom shall be a member of the Senate and the other a member of the House of Representatives.

(b) It shall be the function of the committee to make a continuous study of the programs and of the fairness to consumers of the prices authorized by this Act and to review the progress achieved in the execution and administration thereof. Upon request, the committee shall aid the standing committees of the Congress having legislative jurisdiction over any part of the programs authorized by this Act; and it shall make a report to the Senate and the House of Representatives, from time to time, concerning the results of its studies, together with such recommendations as it may deem desirable. Any department, official, or agency administering any of such programs shall, at the request of the committee, consult with the committee, from time to time, with respect to their activities under this Act.

(c) The committee, or any duly authorized subcommittee thereof, is authorized to hold such hearings, to sit and act at such times and places, to require by subpoena (to be issued under the signature of the chairman or vice chairman of the committee) or otherwise the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, to take such

testimony, to procure such printing and binding, and to make such expenditures as it deems advisable. The cost of stenographic services to report such hearings shall not be in excess of ~~25~~ 40 cents per hundred words. The provisions of sections 102 to 104, inclusive, of the Revised Statutes shall apply in case of and failure of any witness to comply with any subpoena or to testify when summoned under authority of this subsection.

(d) The committee is authorized to appoint and, without regard to the Classification Act of 1949, as amended, fix the compensation of such experts, consultants, technicians, and organizations thereof, and clerical and stenographic assistants as it deems necessary and advisable.

(e) The expenses of the committee under this section, which shall not exceed ~~\$50,000~~ \$65,000 in any fiscal year, shall be paid one-half from the contingent fund of the Senate and one-half from the contingent fund of the House of Representatives upon vouchers signed by the chairman or vice chairman. Disbursements to pay such expenses shall be made by the Clerk of the House of Representatives out of the contingent fund of the House of Representatives, such contingent fund to be reimbursed from the contingent fund of the Senate in the amount of one-half of disbursements so made without regard to any other provision of law.

* * * * *

Sec. 717. (a) Title I (except section 104), title III, and title VII (except section 714) of this Act, and all authority conferred thereunder, shall terminate at the close of ~~July 31, 1955~~ June 30, 1956. Section 714 of this Act, and all authority conferred thereunder, shall terminate at the close of July 31, 1953. Section 104, title II, and title VI of this Act, and all authority conferred thereunder shall terminate at the close of June 30, 1953. Titles IV and V of this Act, and all authority conferred thereunder, shall terminate at the close of April 30, 1953.

(b) Notwithstanding the foregoing—

(1) The Congress by concurrent resolution or the President by proclamation may terminate this Act prior to the termination otherwise provided therefor.

(2) The Congress may also provide by concurrent resolution that any section of this Act and all authority conferred thereunder shall terminate prior to the termination otherwise provided therefor.

(3) Any agency created under this Act may be continued in existence for purposes of liquidation for not to exceed six months after the termination of the provisions authorizing the creation of such agency.

(c) The termination of any section of this Act, or of any agency or corporation utilized under this Act, shall not affect the disbursement of funds under, or the carrying out of, any contract, guarantee, commitment or other obligation entered into pursuant to this Act prior to the date of such termination, or the taking of any action necessary to preserve or protect the interests of the United States in any amounts advanced or paid out in carrying on operations under this Act, or the taking of any action (including the making of new guarantees) deemed by a guaranteeing agency to be necessary to accomplish the orderly liquidation, adjustment or settlement of any loans guaranteed under this Act, including actions deemed necessary to avoid undue hardship to borrowers in reconverting to normal civilian production; and all of the authority granted to the President, guaranteeing agencies, and fiscal agents, under section 301 of this Act shall be applicable to actions taken pursuant to the authority contained in this subsection.

Notwithstanding any other provision of this Act, the termination of title VI or any section thereof shall not be construed as affecting any obligation, condition, liability, or restriction arising out of any agreement heretofore entered into, pursuant to, or under the authority of, section 602 or section 605 of this Act, or any issuance thereunder, by any person or corporation and the Federal Government or any agency thereof relating to the provision of housing for defense workers or military personnel in an area designated as a critical defense housing area pursuant to law.

(d) No action for the recovery of any cooperative payment made to a cooperative association by a Market Administrator under an invalid provision of a milk marketing order issued by the Secretary of Agriculture pursuant to the Agricultural Marketing Agreement Act of 1937 shall be maintained unless such action is brought by producers specifically named as party plaintiffs to recover their respective share of such payments within ninety days after the date of enactment of the Defense Production Act Amendments of 1952 with respect to any cause of action heretofore accrued and not otherwise barred, or within ninety days after accrual with respect to future payments, and unless each claimant

shall allege and prove (1) that he objected at the hearing to the provisions of the order under such payments were made and (2) that he either refused to accept payments computed with such deduction or accepted them under protest to either the Secretary or the Administrator. The district courts of the United States shall have exclusive original jurisdiction of all such actions regardless of the amount involved. This subsection shall not apply to funds held in escrow pursuant to court order. Notwithstanding any other provision of this Act, no termination date shall be applicable to this subsection.

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84TH CONGRESS 1st Session	}	HOUSE OF REPRESENTATIVES	}	REPORT No. 1630
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DEFENSE PRODUCTION ACT AMENDMENTS OF 1955

AUGUST 2, 1955.—Ordered to be printed

Mr. SPENCE, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany S. 2391]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2391) to amend the Defense Production Act of 1950, as amended, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following: *That this Act may be cited as the "Defense Production Act Amendments of 1955"*.

SEC. 2. Section 2 of the Defense Production Act of 1950, as amended, is amended to read as follows:

"DECLARATION OF POLICY

"SEC. 2. In view of the present international situation and in order to provide for the national defense and national security, our mobilization effort continues to require some diversion of certain materials and facilities from civilian use to military and related purposes. It also requires the development of preparedness programs and the expansion of productive capacity and supply beyond the levels needed to meet the civilian demand, in order to reduce the time required for full mobilization in the event of an attack on the United States."

SEC. 3. Section 303 of the Defense Production Act of 1950, as amended, is amended by adding at the end thereof a new subsection as follows:

"(g) When in his judgment it will aid the national defense, and upon a certification by the Secretary of Agriculture or the Secretary of the Interior that a particular strategic and critical material is likely to be in short supply in time of war or other national emergency, the President may make provision for the development of substitutes for such strategic and critical materials."

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SEC. 4. Subsection (c) of section 701 of the Defense Production Act of 1950, as amended, is amended to read as follows:

"(c) Whenever the President invokes the powers given him in this Act to allocate any material in the civilian market, he shall do so in such a manner as to make available, so far as practicable, for business and various segments thereof in the normal channel of distribution of such material, a fair share of the available civilian supply based, so far as practicable, on the share received by such business under normal conditions during a representative period preceding any future allocation of materials: Provided, That the President shall, in the allocation of materials in the civilian market, give due consideration to the needs of new concerns and newly acquired operations, undue hardships of individual businesses, and the needs of smaller concerns in an industry."

SEC. 5. Section 701 of the Defense Production Act of 1950, as amended, is amended by adding after subsection (c) a new subsection as follows:

"(d) In order to further the objectives and purposes of this section, the Office of Defense Mobilization is directed to investigate the distribution of defense contracts with particular reference to the share of such contracts which has gone and is now going to small business, either directly or by subcontract; to review the policies, procedures, and administrative arrangements now being followed in order to increase participation by small business in the mobilization program; to explore all practical ways, whether by amendments to laws, policies, regulations, or administrative arrangements, or otherwise, to increase the share of defense procurement going to small business; to get from the departments and agencies engaged in procurement, and from other appropriate agencies including the Small Business Administration, their views and recommendations on ways to increase the share of procurement going to small business; and to make a report to the President and the Congress, not later than six months after the enactment of the Defense Production Act Amendments of 1955, which report shall contain the following: (i) a full statement of the steps taken by the Office of Defense Mobilization in making investigations required by this subsection; (ii) the findings of the Office of Defense Mobilization with respect to the share of procurement which has gone and is now going to small business; (iii) a full and complete statement of the actions taken by the Office of Defense Mobilization and other agencies to increase such small business share; (iv) a full and complete statement of the recommendations made by the procurement agencies and other agencies consulted by the Office of Defense Mobilization; and (v) specific recommendations by the Office of Defense Mobilization for further action to increase the share of procurement going to small business."

SEC. 6. Section 708 of the Defense Production Act of 1950, as amended, is amended—

(1) by inserting before the period at the end of the first sentence of subsection (b) a colon and the following: "Provided, however, That after the enactment of the Defense Production Act Amendments of 1955, the exemption from the prohibitions of the antitrust laws and the Federal Trade Commission Act of the United States shall apply only (1) to acts and omissions to act requested by the President or his duly authorized delegate pursuant to duly approved voluntary agreements or programs relating solely to the exchange between actual or prospective contractors of technical or other information, production techniques, and patents or patent rights, relating to equipment

used primarily by or for the military which is being procured by the Department of Defense or any department thereof, and the exchange of materials, equipment, and personnel to be used in the production of such equipment; and (2) to acts and omissions to act requested by the President or his duly authorized delegate pursuant to voluntary agreements or programs which were duly approved under this section before the enactment of the Defense Production Act Amendments of 1955. The Attorney General shall review each of the voluntary agreements and programs covered by this section, and the activities being carried on thereunder, and, if he finds, after such review and after consultation with the Director of the Office of Defense Mobilization and other interested agencies, that the adverse effects of any such agreement or program on the competitive free enterprise system outweigh the benefits of the agreement or program to the national defense, he shall withdraw his approval in accordance with subsection (d) of this section. This review and determination shall be made within ninety days after the enactment of the Defense Production Act Amendments of 1955.”;

(2) by inserting in subsection (d) thereof after the word “hereunder” the following: “, or upon withdrawal by the Attorney General of his approval of the voluntary agreement or program on which the request or finding is based,”;

(3) by inserting after the first sentence of subsection (e) thereof the following new sentence: “Such surveys, and the reports hereafter required, shall include studies of the voluntary agreements and programs authorized by this section.”;

(4) by striking out from the last sentence of subsection (e) thereof the words “at such times thereafter as he deems desirable” and inserting in lieu thereof the words “at least once every three months”.

SEC. 7. Section 710 (b) of the Defense Production Act of 1950, as amended, is amended to read as follows:

“(b) (1) The President is further authorized, to the extent he deems it necessary and appropriate in order to carry out the provisions of this Act, and subject to such regulations as he may issue, to employ persons of outstanding experience and ability without compensation;

“(2) The President shall be guided in the exercise of the authority provided in this subsection by the following policies:

“(i) So far as possible, operations under the Act shall be carried on by full-time, salaried employees of the Government, and appointments under this authority shall be to advisory or consultative positions only.

“(ii) Appointments to positions other than advisory or consultative may be made under this authority only when the requirements of the position are such that the incumbent must personally possess outstanding experience and ability not obtainable on a full-time, salaried basis.

“(iii) In the appointment of personnel and in assignment of their duties, the head of the department or agency involved shall take steps to avoid, to as great an extent as possible, any conflict between the governmental duties and the private interests of such personnel.

“(3) Appointees under this subsection (b) shall, when policy matters are involved, be limited to advising appropriate full-time salaried Government officials who are responsible for making policy decisions.

“(4) Any person employed under this subsection (b) is hereby exempted, with respect to such employment, from the operation of sections 281, 283,

284, 434, and 1914 of title 18, United States Code, and section 190 of the Revised Statutes (5 U. S. C. 99), except that—

“(i) exemption hereunder shall not extend to the negotiation or execution, by such appointee, of Government contracts with the private employer of such appointee or with any corporation, joint stock company, association, firm, partnership, or other entity in the pecuniary profits or contracts of which the appointee has any direct or indirect interest;

“(ii) exemption hereunder shall not extend to making any recommendation or taking any action with respect to individual applications to the Government for relief or assistance, on appeal or otherwise, made by the private employer of the appointee or by any corporation, joint stock company, association, firm, partnership, or other entity in the pecuniary profits or contracts of which the appointee has any direct or indirect interest;

“(iii) exemption hereunder shall not extend to the prosecution by the appointee, or participation by the appointee in any fashion in the prosecution, of any claims against the Government involving any matter concerning which the appointee had any responsibility during his employment under this subsection; during the period of such employment and the further period of two years after the termination of such employment; and

“(iv) exemption hereunder shall not extend to the receipt or payment of salary in connection with the appointee's Government service hereunder from any source other than the private employer of the appointee at the time of his appointment hereunder.

“(5) Appointments under this subsection (b) shall be supported by written certification by the head of the employing department or agency—

“(i) that the appointment is necessary and appropriate in order to carry out the provisions of the Act;

“(ii) that the duties of the position to which the appointment is being made require outstanding experience and ability;

“(iii) that the appointee has the outstanding experience and ability required by the position; and

“(iv) that the department or agency head has been unable to obtain a person with the qualifications necessary for the position on a full-time, salaried basis.

“(6) The heads of the departments or agencies making appointments under this subsection (b) shall file with the Division of the Federal Register for publication in the Federal Register a statement including the name of the appointee, the employing department or agency, the title of his position, and the name of his private employer, and the appointee shall file with such Division for publication in the Federal Register a statement listing the names of any corporations of which he is an officer or director or within 60 days preceding his appointment has been an officer or director, or in which he owns, or within 60 days preceding his appointment has owned, any stocks, bonds, or other financial interests, and the names of any partnerships in which he is, or was within 60 days preceding his appointment, a partner, and the names of any other businesses in which he owns, or within such 60 day period has owned, any similar interest. At the end of each succeeding six-month period, the appointee shall file with such Division for publication in the Federal Register a statement showing any changes in such interests during such period.

"(7) At least once every three months the Chairman of the United States Civil Service Commission shall survey appointments made under this subsection and shall report his findings to the President and the Joint Committee on Defense Production and make such recommendations as he may deem proper.

"(8) Persons appointed under the authority of this subsection may be allowed transportation and not to exceed \$15 per diem in lieu of subsistence while away from their homes or regular places of business pursuant to such appointment."

SEC. 8. Section 710 of the Defense Production Act of 1950, as amended, is further amended by redesignating subsections "(e)" and "(f)" as subsections "(f)" and "(g)", respectively, and by inserting after subsection "(d)" a new subsection as follows:

"(e) The President is further authorized to provide for the establishment and training of a nucleus executive reserve for employment in executive positions in Government during periods of emergency. Members of this executive reserve who are not full-time Government employees may be allowed transportation and not to exceed \$15 per diem in lieu of subsistence while away from their homes or regular places of business for the purpose of participating in the executive reserve training program. The President is authorized to provide by regulation for the exemption of such persons who are not full-time Government employees from the operation of sections 281, 283, 284, 434, and 1914 of title 18 of the United States Code and section 190 of the Revised Statutes (5 U. S. C. 99)."

SEC. 9. Section 712 of the Defense Production Act of 1950, as amended, is amended—

(1) by striking out "25" from the second sentence of subsection (c) thereof and inserting in lieu thereof "40"; and

(2) by striking out "\$50,000" in the first sentence of subsection (e) thereof and inserting in lieu thereof "\$65,000".

SEC. 10. Section 717 of the Defense Production Act of 1950, as amended, is amended by striking out "July 31, 1955" from the first sentence of subsection (a) thereof and inserting in lieu thereof "June 30, 1956".

SEC. 11. The provisions of this Act shall take effect as of the close of July 31, 1955.

And the House agree to the same.

BRENT SPENCE,
PAUL BROWN,
WRIGHT PATMAN,
ALBERT RAINS,
JESSE P. WOLCOTT,
RALPH A. GAMBLE,
HENRY O. TALLE,

Managers on the Part of the House.

JOHN SPARKMAN,
PAUL H. DOUGLAS,
WAYNE MORSE,
HOMER E. CAPEHART,
IRVING M. IVES,

Managers on the Part of the Senate.

STATEMENT OF THE MANAGERS ON THE PART OF THE HOUSE

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2391) to amend the Defense Production Act of 1950, as amended, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

POLICY OF THE ACT

The Senate bill contained a provision which would amend the declaration of policy of the act so as to include among its purposes specific reference to the development of preparedness programs in order to reduce the time required for full mobilization in the event of an attack on the United States. A similar provision was not included in the House amendment as such preparedness measures were considered to be implicit in the objectives of title III of the act. However, because our mobilization effort has reached a stage in which increasing emphasis is being placed on preparedness measures to eliminate the remaining bottlenecks to the achievement of productive capacity more nearly adequate for full mobilization, the committee of conference is of the opinion it is proper to include reference to the development of preparedness programs in the statement of policy of the act. Accordingly the conference substitute includes this provision of the Senate bill.

SUBSTITUTE MATERIALS

Title III of the act authorizes the use of various incentives to expand productive capacity and supply needed for the mobilization base. While much has been accomplished toward reducing the threat of wartime shortages of strategic and critical materials for defense programs, there still remain certain critical items the supplies of which would remain inadequate to meet our full national requirements under full mobilization. The Senate bill contained a provision, which was not included in the House amendment, authorizing the President, upon a certification by the Secretary of Agriculture or the Secretary of the Interior that a particular strategic and critical material is likely to be in short supply in time of war or other national emergency, to make provision for the development of substitutes for strategic and critical materials when in his judgment it will aid the national defense. The committee of conference believes that it is desirable to spell out this authority specifically and has included this provision of the Senate bill in the conference substitute.

SHARE OF SMALL BUSINESS IN PROCUREMENT

The Senate bill added a new subsection (d) to section 701 of the act. Under the provisions of this new subsection the Office of Defense Mobilization is directed to make a study of the share of defense contracts which has gone to small business, review existing procedure for increasing participation by small business, and within 6 months make a full and complete report with recommendations for further

action to increase the share of procurement going to small business. The House amendment did not contain a similar provision. The conference substitute includes this provision of the Senate bill.

VOLUNTARY AGREEMENTS

Section 708 of the Defense Production Act authorizes the President to exempt from the operation of the antitrust laws combined actions of private parties when in accordance with a voluntary agreement which he has found to be in the public interest as contributing to the national defense. Both the Senate bill and the House amendment established more restrictive criteria under which such authority could be used. The Senate bill permitted both new and existing voluntary agreements covering exclusively military items to continue in effect, and permitted existing nonmilitary agreements to continue in effect subject to review by the Attorney General within 90 days to determine whether or not they should be terminated. The House amendment permitted the continuance of new and existing voluntary agreements covering primarily military items but terminated the antitrust exemption for existing nonmilitary agreements. Under provisions of the House amendment the Attorney General would review existing military voluntary agreements within 90 days and determine if the antitrust exemption should be terminated with respect to such agreements.

The conference substitute follows the language of the House amendment but includes the provision of the Senate bill which allows existing nonmilitary voluntary agreements to continue subject to review by the Attorney General within a period of 90 days to determine whether or not such agreements should be terminated or continued.

EMPLOYEES SERVING WITHOUT COMPENSATION

Section 710 (b) of the act authorizes the President, to the extent he deems it necessary and appropriate, to order to carry out the provisions of the act and subject to such regulations as he may issue, to employ persons of outstanding experience and ability without compensation and to exempt such persons from the conflict-of-interest statutes. Both the Senate bill and the House amendment contained provisions which would amend this subsection and spell out in more detail the conditions governing employment of such personnel. Essentially, the new provisions would incorporate into law provisions now contained in Executive Order 10182 with certain modifications and additions.

The House amendment contained a provision which was not included in the Senate bill under which an employee serving without compensation would be required to file under oath and with the head of his employing agency a full report of his outside connections within a period of 12 months preceding his appointment and file monthly thereafter any changes in such outside connections so long as his appointment is in effect. The conference substitute includes a modified w. o. c. reporting requirement under which—

the appointee shall file with the Division of the Federal Register for publication in the Federal Register a statement listing the names of any corporation of which he is an officer or director or within 60 days preceding his appointment has been an officer or director, or in which he owns, or within 60 days preceding his appoint-

ment has owned, any stocks, bonds, or other financial interests, and the names of any partnerships in which he is, or was within 60 days preceding his appointment, a partner, and the names of any other businesses in which he owns, or within such 60-day period has owned, any similar interest. At the end of each succeeding six-month period, the appointee shall file with such Division for publication in the Federal Register a statement showing any changes in such interests during such period.

The House amendment contained a provision under which the waiver of the conflict of interest statutes for a w. o. c. employee would not apply in connection with the making of any recommendation or the taking of any action for Government relief or assistance under the provisions of the act made by the private employer of the appointee or any company in which the appointee had any direct or indirect interest. The Senate bill contained a similar provision except that it did not limit the action to that taken "under the provisions of the Act." The conference substitute follows the Senate bill in this respect.

The Senate bill included in its amendment of this section of the act a provision of existing law allowing w. o. c. employees transportation expenses and not to exceed \$15 per diem in lieu of subsistence while such employees were away from their homes pursuant to their appointments. No similar provision was contained in the House amendment. The conference substitute includes this provision.

EXECUTIVE RESERVE

The Senate bill contained a provision which was not included in the House amendment, which would add a new subsection to section 710 of the act under which the President would be authorized to provide for the establishment and training of a nucleus executive reserve for employment in executive positions in Government during periods of emergency. Provision was made for the customary payments in lieu of subsistence and the President would be authorized to provide by regulation for the exemption of such members from the conflict-of-interest statutes. The conference substitute includes this provision of the Senate bill.

EFFECTIVE DATE OF EXTENSION

The conferees included a provision to the effect that the extension would be effective as of the close of July 31, 1955. This will keep in effect all orders, regulations, and other issuances of the agencies and all the provisions of the act, as though the extension had been enacted without a gap. It is understood, of course, that the retroactive effect of the provision does not apply with respect to actions which would have been violations of regulations or statutes, if there had been no lapse. Such retroactive effect would conflict with the prohibition on ex post facto laws in article I, section 9, of the Constitution.

BRENT SPENCE,
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Managers on the Part of the House.

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